

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHNNIE LAMAR WITHERSPOON

Petitioner,

Case No. 1:07-CV-981

v.

Hon. Robert J. Jonker

CAROL HOWES,

Respondent.

_____/

ORDER
APPROVING REPORT AND RECOMMENDATION

The court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties On August 18, 2010. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(C).

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge, filed August 18, 2010, is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that the petitioner's habeas corpus petition is **DENIED**. Rule 8, Rules Governing § 2254 Cases in the United States District Courts.

IT IS FURTHER ORDERED that a certificate of appealability from the judgment issued this date is **DENIED** because a reasonable jurist could not conclude either that the District Court erred in dismissing the petition for failure to exhaust or that the petitioner should be allowed to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE

Dated: September 14, 2010